

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION**

**MDL NO. 2724
16-MD-2724
HON. CYNTHIA M. RUFÉ**

THIS DOCUMENT RELATES TO:

Civil Action Nos.

Ahold USA, Inc., et al. v. Actavis Holdco U.S., Inc., et al.

18-2641

The Kroger Co., et al. v. Actavis Holdco U.S., Inc., et al.

18-284

Humana Inc. v. Actavis Elizabeth, LLC et al.

18-3299

ORAL ARGUMENT REQUESTED

**DEFENDANT IMPAX LABORATORIES, INC.'S MOTION TO
DISMISS DIRECT PURCHASER PLAINTIFFS', KROGER
PLAINTIFFS', AND HUMANA'S AMENDED COMPLAINTS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendant Impax Laboratories, Inc. (Impax), by and through its undersigned counsel, respectfully moves to dismiss the following, with prejudice:

1. Direct Purchasers' First Amended Class Action Complaint, *Ahold USA, Inc., et al. v. Actavis Holdco U.S., Inc., et al.*, No. 18-cv-2641 (ECF No. 11) (E.D. Pa. Dec. 21, 2018), in its entirety;
2. Amended Complaint and Demand for Jury Trial, *The Kroger Co., et al. v. Actavis Holdco U.S., Inc., et al.*, No. 18-cv-284 (ECF No. 37), with respect to Counts 1 and 23; and
3. Amended Complaint, *Humana Inc. v. Actavis Elizabeth, LLC, et al.*, No. 18-cv-3299 (ECF No. 29), with respect to Counts CVI-CX.

In support of this motion, Impax joins in and incorporates by reference Defendants' Joint Motion to Dismiss Plaintiffs' Overarching Conspiracy Claims and the accompanying memorandum of law.

In further support of its motion to dismiss Direct Purchasers' First Amended Class Action Complaint and Count 23 of Kroger Plaintiffs' Amended Complaint, Impax is filing contemporaneously herewith its Memorandum of Law in Support of Its Motion to Dismiss Direct Purchasers' First Amended Class Action Complaint and Count Twenty-Three of Kroger Plaintiffs' Amended Complaint, which sets forth additional grounds for dismissal of those claims against Impax.

For the reasons set forth in the aforementioned memoranda of law, the Court should dismiss the Direct Purchasers' First Amended Complaint in its entirety, Counts 1 and 23 of Kroger Plaintiffs' Amended Complaint, and Counts CVI-CX of Humana Inc.'s Amended Complaint, with prejudice, as to Impax. Pursuant to Rule 7.1(f) of the Local Rules of Civil Procedure, Impax respectfully requests oral argument on this motion to dismiss.

Dated: February 21, 2019

Respectfully submitted,

/s/ Raymond A. Jacobsen, Jr.

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CERTIFICATE OF SERVICE

I hereby certify on this 21st day of February 2019, a true and correct copy of the foregoing was filed electronically and is available for viewing and downloading from the Court's ECF System. Notice of this filing will be sent to all counsel of record by operation of the ECF System.

/s/ Raymond A. Jacobsen, Jr.
Raymond A. Jacobsen, Jr.